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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA

CR 09-336-HA

v.

**GOVERNMENT'S UNOPPOSED
MOTION FOR PROTECTIVE ORDER**

JAMES RAY YOAKUM, et al

Defendants.

The United States of America, by Kent S. Robinson, Acting United States Attorney for the District of Oregon, through Scott M. Kerin, Assistant United States Attorney (AUSA), hereby moves this Court for a protective order pursuant to Rule 16(d)(1) of the Federal Rules of Criminal Procedure, seeking to prevent the dissemination or misuse of discovery material containing sensitive personal identity and financial information. A proposed protective order is filed herewith. The government has contacted counsel of record for the defendant, who has advised the government that he does not object to the Court's entry of the proposed protective order.

The indictment in this case charges the defendant with one count of Conspiracy to Distribute and Possess with the Intent to Distribute Cocaine and Cocaine Base and eight counts of Distribution of Cocaine. Included in the indictment's description of the Ways and Means of Conspiracy is an allegation that, as part of the conspiracy, members operated or used business

entities as “fronts” to conceal, transfer, and spend cash proceeds from sales of cocaine. Evidence in the case includes financial records pertaining to both the co-conspirators’ business entities as well as their personal accounts. The discovery material in this case includes highly sensitive information about these individuals as well as other unindicted persons, including personal and financial information such as: dates of birth, social security numbers, addresses and phone numbers. Due to the large volume of discovery material concerning the financial records (approximately 8,200 pages), and the frequency with which the sensitive information appears throughout the documents, redaction of all discovery is not a feasible option.

In light of the nature of the highly sensitive personal and financial information included in the discovery material, the government respectfully requests that the Court order that counsel of record not copy or disseminate, to anyone except members of the defense team and those persons employed by defense counsel who are necessary to assist counsel in preparation for trial or other proceedings, discovery material produced by the government which contains: (a) personal identifying information of any individual, including without limitation, any individual’s date of birth, social security number, address, telephone number, email address, driver’s license number, professional license number, or family members’ names (“Personal Information”); or (b) financial information of any individual or business, including without limitation, bank account numbers, credit or debit card numbers, account passwords, account names and contact information, account history, account balances, account statements, or taxpayer identification numbers (“Financial Information”), unless defense counsel first redacts the Personal Information and Financial Information from the discovery material.

A similar protective order has been issued in the District of Oregon. In *United States v.*

Fisher, 137 F.3d 1158, 1165 (9th Cir. 1998), the Ninth Circuit affirmed United States District Judge Malcom F. Marsh's protective order which restricted defendant access to discovery material provided by the government in light of a risk that the defendant would misuse the information contained in the discovery material.

In addition, pursuant to 26 U.S.C. § 6103, the government requests that the Court issue an order authorizing the government to disclose to defense counsel returns and taxpayer return information the government has obtained during its investigation of this case. The government requests that the Court order that the defendants and their respective counsel be permitted to use the disclosed returns and taxpayer return information only in connection with the criminal proceedings herein, and that no disclosure shall be made to any other person except in accordance with 26 U.S.C. § 6103.

DATED this 11th day of December, 2009.

Respectfully submitted,

KENT S. ROBINSON
Acting United States Attorney
District of Oregon

s/ Scott M. Kerin
SCOTT M. KERIN, OSB #965128
Assistant United States Attorney